IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

OP.No. 28857 of 2002(I)

PETITIONER:

J.ABDUL AZEEZ, MEDICAL RECORD LIBRARIAN GRADE II, MEDICAL COLLEGE, THIRUVANANTHAPURAM.

BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR
SRI.S.P.ARAVINDAKSHAN PILLAY
SRI.PIRAPPANCODE V.S.SUDHIR
SMT.N.SANTHA
SRI.SAJU JOHN
SRI.V.VARGHESE
SMT.RESMI G. NAIR

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT, HEALTH AND FAMILY WELFARE (B) DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**
2. **THE DIRECTOR OF MEDICAL EDUCATION, THIRUVANANTHAPURAM.**
3. **P.D.JAYA, MEDICAL RECORD LIBRARIAN GRADE II, THRISSUR.**
4. **P.P.KARTHA, MEDICAL RECORD LIBRARIAN GRADE II, THRISSUR.**
5. **A.A.OMANA, MEDICAL RECORD LIBRARIAN GRADE II, THRISSUR.**
6. **V.K.PADMAVATHY, MEDICAL RECORD LIBRARIAN GRADE II, THRISSUR.**
7. **P.K.PADMAJA, MEDICAL RECORD LIBRARIAN GRADE II, THRISSUR.**
8. **B.RAJAMMA, MEDICAL RECORD LIBRARIAN GRADE II, THRISSUR.**

....2/-

9. V.SASI, MEDICAL RECORD LIBRARIAN GRADE II,
ALAPPUZHA.

*ADDL.R10 TO R12 ARE IMPLEADED:

R10. K.SREEKANTAN NAIR,
MEDICAL RECORDS LIBRARIAN GR.II,
MEDICAL COLLEGE HOSPITAL,
THIRUVANANTHAPURAM – 695 011.

R11. D.AJAYALAL,
MEDICAL RECORDS LIBRARIAN GR.II,
MEDICAL COLLEGE HOSPITAL,
THIRUVANANTHAPURAM – 695 011.

R12. M.MUHAMMED NAJEEB,
MEDICAL RECORDS LIBRARIAN GR.II,
SAT HOSPITAL, THIRUVANANTHAPURAM – 695 011.

(ADDL.R10 TO R12 ARE IMPLEADED AS PER ORDER DTD.
10/01/2003 IN C.M.P.NO.63595/2002)

BY ADV. SRI.PREMJIT NAGENDRAN for R3
SRI.P.K.ASHOKAN for R4,R5
SRI.B.RAGUNATHAN for Addl.R10,R11,R12
SRI.G.S.MOHANDAS
SRI.V.V.MATHEW
BY GOVERNMENT PLEADER SRI. BASANT BALAJI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.28857/2002 I

ORDER ON C.M.P.NO.49097/2002 IN O.P.NO.28857/2002 I

DISMISSED

26/02/2007 **SD/-KURIAN JOSEPH, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE GOVERNMENT ORDER NO.G.O.(MS) NO.738/65 DTD. 16/09/1965.**

EXT.P2: **COPY OF THE REPRESENTATION DTD. 18/09/1995 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.**

EXT.P3: **COPY OF THE PETITION DTD. 2/11/1996 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**

EXT.P4: **COPY OF THE CERTIFICATE DTD. 7/12/1995 ISSUED BY THE ADMINISTRATIVE OFFICER, MEDICAL COLLEGE, THIRUVANANTHAPURAM PRODUCED BY THE PETITIONER BEFORE THE GOVERNMENT ALONG WITH EXT.P3 PETITION.**

EXT.P5: **COPY OF THE LETTER NO.EN1-2253/96/MCT DTD. 23/04/1996 OF THE 3RD RESPONDENT.**

EXT.P5(A): **COPY OF THE SERVICE DETAILS OF THE PETITIONER SENT BY THE ADMINISTRATIVE OFFICER ALONG WITH EXT.P5.**

EXT.P6: **COPY OF THE ORDER NO.26994/B1/95/SFD DTD. 21/08/1995 OF THE HEALTH & FAMILY WELFARE (B) DEPARTMENT.**

EXT.P7: **COPY OF THE JUDGMENT DTD. 7/01/1998 IN O.P.NO.15888/96 OF THIS HON'BLE COURT.**

EXT.P8: **COPY OF THE ORDER NO.E3/2593/95/DME DTD. 28/12/1995 OF THE 2ND RESPONDENT.**

EXT.P9: **COPY OF THE RELEVANT EXTRACT OF THE SENIORITY LIST OF MEDICAL RECORD LIBRARIAN IN THE DEPARTMENT OF MEDICAL EDUCATION AS ON 31/10/1998.**

EXT.P10: **COPY OF THE ORDER NO.E3/21738/95/DME DTD. 27/02/1997 OF THE 2ND RESPONDENT.**

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O.P.NO.28857/2002 I

EXT.P11: COPY OF THE GOVERNMENT LETTER NO.723/D2/99/H&FWD DTD. 13/07/2000 ADDRESSED TO THE 2ND RESPONDENT.

EXT.P12: COPY OF THE LETTER NO.48212/B2/2000/H&FWD DTD. 6/12/2000 OF THE 1ST RESPONDENT.

EXT.P13: COPY OF THE JUDGMENT IN O.P.16272/1998 OF THIS HON'BLE COURT.

EXT.P14; COPY OF THE ORDER NO.E2-19511/98/DME DTD. 18/12/2001 OF THE 2ND RESPONDENT.

EXT.P15: COPY OF THE REPRESENTATION DTD. 19/01/2002 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P16: COPY OF THE PETITION DTD. 29/07/2002 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P17: COPY OF THE G.O.(RT) NO.3904/77/HEALTH DTD. 21/11/1977.

EXT.P18: COPY OF THE ORDER NO.EN/3284/94/MCT DTD.12/09/1994 PROMOTING THE PETITIONER AS CLERICAL ATTENDER GRADE II.

EXT.P19: COPY OF THE G.O.(P) 112/66/FIN.DTD. 5/04/1966.

EXT.P20: COPY OF THE G.O.(RT) NO.2408/70/HEALTH D/11-11-7- HEALTH B DEPARTMENT.

EXT.P21: COPY OF THE G.O.(MS) NO.90/99/H&FWD DTD. 4/03/1999.

10TH RESPONDENT'S EXHIBIT:

EXT.R10(A): COPY OF THE ORDER DTD. 11/10/02 ALONG WITH THE SENIORITY LIST OF MRL.GR.II.

/TRUE COPY/

Kss

KURIAN JOSEPH, J.

O.P.No.28857 of 2002

Dated 26th February, 2007.

J U D G M E N T

Petitioner claims that he is entitled to be appointed as Medical Record Librarian Grade II with effect from 1.11.1995. There is no dispute that Attender on scale of pay of Rs.40-80/- is entitled for promotion. Needless to say that the scale of Rs.40-80/- is the pre-revised scale of 1965. The date of occurrence of vacancy according to the petitioner is 1.11.1995. According to the Government, the petitioner was only on scale of pay of Rs.35-60/-. This is a matter of simple verification. If as a matter of fact, as on the date of occurrence of the vacancy, the petitioner was an Attender in the scale of pay of Rs.40-80/- (pre-revised) and in case he is otherwise eligible, he is entitled to succeed. There will be a direction to the Government to look into Exts.P15 and P16 representations filed by the petitioner with notice to him and the party respondents and pass appropriate orders in accordance with law, within three months from the date of production of a copy of the judgment. In the process, the contention that the petitioner in any case is entitled to have the promotion maintained with

effect from 10.6.1997 will also be considered by the Government.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

O.P.No.28857 of 2002 (I)

J U D G M E N T

Dated 26th February, 2007.